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DEVELOPING A SCENIC RIVER MANAGEMENT
POLICY: A COMPARISON OF FEDERAL AND
STATE LEGISLATION AND PLANS FOR THE
PERE MARQUETTE RIVER IN MICHIGAN

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STRATEGY: A COMPARISON OF FEDERAL AND
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Developing A Scenic River Management Strategy: A comparison of Federal and State legislation and plans for the Pere Marquette River in Michigan.

ABSTRACT

The Pere Marquette River in Michigan's Lower Peninsula has been included in protective and restrictive legislation from both the Federal and State Governments. During 1978, the State of Michigan formally designated the Pere Marquette River as a Wild Scenic River under the State Natural Rivers system. Also, during 1978, the United States Congress classified the Pere Marquette as a National Scenic River under the National Wild and Scenic River Act.

Comparisons of the two legislative acts reveals the objectives are very similar. The management plans that were developed separately by both agencies are also quite similar. Implementing management plans developed separately by two levels of government could lead to a duplication of effort and confusion among riparian owners and river users.

The author suggests that the State management plan be given an opportunity to succeed before Federal authorities are imposed. The Federal powers of land acquisition and recreational controls could be used immediately when needed to aid the State management plan in protecting the River resource.

The author also recommends that future river planning, which involves both State and Federal Governments, be done together and a single management plan developed.

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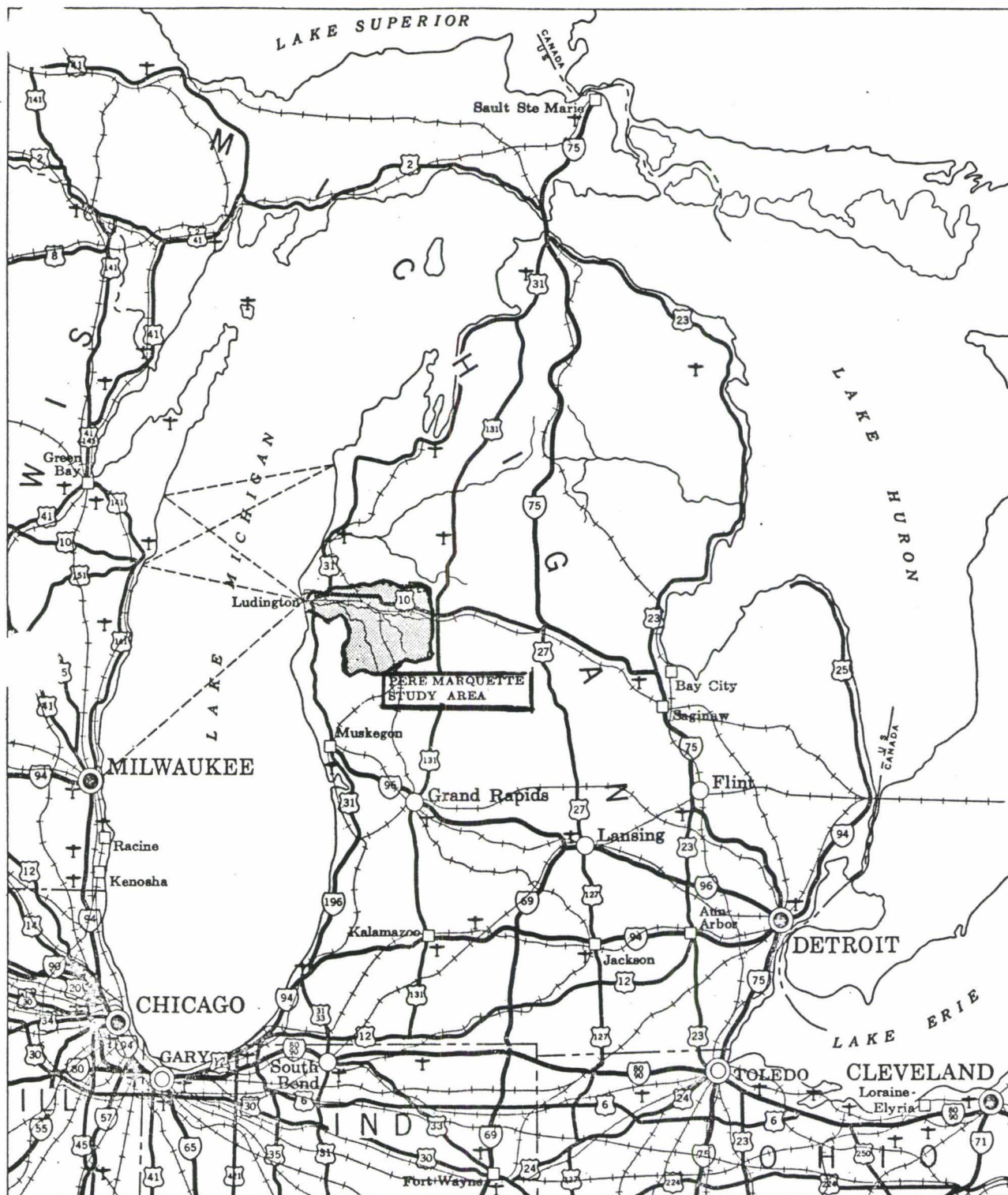
CHAPTER 1

INTRODUCTION

The Pere Marquette River, located in west central Michigan, flows for more than 100 miles through Lake and Mason Counties (Figure I). Known for its scenic beauty, fishing opportunities and canoeing attraction, the river is easily accessible by the 50 million people who live and work within one day's drive of the River.

The water quality of the Pere Marquette is perhaps the main reason behind its popularity. It meets the highest State of Michigan standards for recreational rivers. The water quality also is the reason for one of its greater attributes - its fishery. The Pere Marquette is recognized as one of the leading trout streams in the country. The State of Michigan classifies it as a Blue Ribbon trout stream. In addition to native brown trout, the stream has spring runs of steelhead and fall runs of coho and chinook salmon. Atlantic salmon will soon be introduced to the River.

The swift waters of the Pere Marquette make it one of the best lower Michigan recreational streams for novice and intermediate canoeists. Numbers of canoeists have risen a dramatic 370 percent in 12 years. An estimated 9,000 canoe trips were made in 1970, 43,010 trips were made in 1981.



PROXIMITY MAP PERE MARQUETTE WILD AND SCENIC RIVER STUDY MANISTEE NATIONAL FOREST MICHIGAN

1973
 Scale 0 50 100 150 200 Miles

-  Interstate Highway
-  U. S. Highway
-  Railroad Car and Auto Ferry

At present the Pere Marquette retains much of the shoreline in a semi-developed or wild state. However, left to develop without constraints the shoreline, which is sixty-six percent private ownership, would be developed right to the waters edge by people interested in riverfront properties.

It is only natural that a stream with the characteristics of the Pere Marquette and located near large population centers came to the legislative attention of both the Federal and State Governments. The need to protect and preserve the Pere Marquette River in its present state dates back to the late sixties. Since that time both Federal and State legislation has been developed to deal with the protection of the River.

Federal Protection Action

The Pere Marquette River was designated a study Wild & Scenic River by Public Law (P.L.) 90-542 dated October 2, 1968. The law, known as the "Wild and Scenic Rivers Act", established a National Wild and Scenic Rivers system. Rivers are categorized into three categories as defined by the Act:

1. Wild Rivers - Rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail with watersheds or shorelines essentially primitive and waters unpolluted.
2. Scenic Rivers - Those rivers or sections of rivers that are free of impoundments with shorelines or

watershed still largely undeveloped but accessible in places by roads.

3. Recreational Rivers - Those rivers or sections of rivers that are readily accessible by road or trail road that may have some development along their shorelines and that may have undergone some impoundment or division in the past.

Eight rivers were named as "instant" components of the National system and 27 named "study rivers." The Pere Marquette was one of the study rivers. 1/

The study of the Pere Marquette River to determine its eligibility for classification was led by the United States Department of Agriculture, Forest Service, and conducted jointly with the State of Michigan. An inter-agency task force was organized and involved in the study. The study began in 1969 and concluded in 1973.

The findings of the study team was that 66.4 miles of the mainstream met the Scenic River criteria of P.L. 90-542 and should be included in the National Wild and Scenic Rivers system (Figure II).

An environmental impact study was prepared and made public on February 5, 1974. The formal classification as a National Scenic river occurred on November 10, 1978. 2/ Under this law,

the Forest Service was given the authority to manage the scenic river corridor in cooperation with the State of Michigan.

State Protection Action

The Michigan legislature enacted a Natural Rivers Act in 1970. ^{3/} The objective of this act was to establish a system of designated natural rivers in Michigan and preserve, protect, and enhance those rivers' environments in a natural state. The State system classifies rivers in three categories:

1. Wilderness Rivers - A river in an extensive wilderness area largely in government or corporate ownership which is primitive and unspoiled, free of impoundments, inaccessible except by trail. It should possess high quality water and be relatively unaffected by man's activities.
2. Wild Scenic River - A river of wild character with a wild or forested corridor, close proximity to human development, free flowing with limited access by trails or roads. It contains water of high aesthetic quality meeting established water quality standards.
3. Country Scenic River - Presents appearance of a pleasant country scene. Peaceful with bordering trees or thickets; pastures and meadows often with

views through unremoved borders. Occasional impoundments are acceptable. High quality water is present with moderately developed shorelines.

In October 1977, the Michigan Natural Resource Commission directed the Department of Natural Resources (DNR) to draft a Natural River Management plan for the Pere Marquette River. On July 13, 1978, the Pere Marquette River and its tributaries were designated a Wild Scenic River under the Natural River system.

During 1978, protective and developmental restrictions were designated for the Pere Marquette River by two levels of government with only a minimal amount of coordination between the Forest Service and the DNR. A memorandum of understanding between the two agencies was developed in 1980, but dealt mainly with the recognition of the two agencies in the management of the River (See Appendix 1). ^{4/}

The purpose of this project is to review the legislation leading to the special river designations and the management plans that have been developed under the Federal law and the State Natural River Act, compare similarities, and point out possible problem areas. The document will also suggest how the two agencies can best work together to manage the River.

Statement of the Problem

A special designation by the Federal and State Governments for the protection and enhancement of the Pere Marquette River has the potential to duplicate efforts and confuse the public. However, dual designation also has the potential to enhance and protect the River to the ultimate degree. It also can cause inefficiencies within the agencies if the roles and responsibilities of both agencies are not defined, agreed upon, and documented.

CHAPTER 2

METHODOLOGY AND TECHNIQUES

A literature search was made through the North Central Forest Experiment Station's library. A search was requested of Wild and Scenic River material that dealt with rivers having both Federal and State special designations. Formal documentation, dealing with rivers which have both State and Federal classification, was studied, looking for similar problems and solutions other river planners and managers have experienced. In addition, pertinent papers from the proceedings of the "River Recreation Management and Research Symposium," held in St. Paul, Minn. in January 1977, were reviewed.

A visit was made to the Michigan DNR offices on November 4, 1981, to discuss the dual designation project and solicit their input for the study. Without exception, the Michigan officials felt the project was well worthwhile.

A thorough review was made of the Federal Wild and Scenic River legislation as well as the State Natural Rivers Act. Contacts were made with the Forest Service's North Central Forest Experiment Station researchers and Region Nine recreation staff to get their input and pertinent literature.

The Study Report, Environmental Impact study, and draft management plan for the Federal Wild and Scenic River plan and for the Pere Marquette River were studied. This plan was then compared with the State Pere Marquette River Natural River plan. Similarities and areas of conflict were noted and are the focal point of this paper.

Substantive Aspects of the Problem

Designation of the same river by both the Federal and State governments can cause confusion in the users' mind, waste of taxpayers' dollars, and disenchantment with the administering agencies unless the areas of responsibility and control are well researched, agreed upon, and documented. With cooperation and an agreed upon document of responsibilities the river can be protected and enhanced in the most efficient manner.

The State Natural Rivers Act as well as the Federal Wild and Scenic Rivers Act contain many provisions which can enhance the river now and for future generations. The following is a brief review of both Acts and management plans and points out how the two agencies could best work together to protect and enhance the River.

CHAPTER 3

A COMPARISON OF THE OBJECTIVES AND PLANS FOR THE STATE AND FEDERAL LEGISLATION

A comparison was made of the objectives of the National Wild and Scenic Rivers Act and the Michigan State Natural Rivers Act to evaluate the similarities and differences.

A. National Wild and Scenic Rivers Act objectives;

1. Preserve

-Free flowing condition

2. Protect

-Water quality

-Immediate environs

3. Fulfill

-Other vital conservation purposes

B. State Natural River Act objectives;

Preserve and Enhance

-Values for water conservation

-Free flowing conditions

-Fish, wildlife, boating, aesthetics, and flood plain

-Historic and recreational values

A comparison of the two acts quickly points out that the objectives are virtually the same. Free flowing is mentioned exclusively in both acts. The National Act is somewhat less

specific than the State Act. "Immediate environs" and "other vital conservation purposes" could cover a wider variety of activities and areas.

A comparison of the Federal and State River Management Plans
for the Pere Marquette River:

Another similarity is that both the State Natural Rivers Act and the National Wild and Scenic River legislation require plans be developed for management of the rivers. The State Act, under paragraph 281.763, directs the Natural Resource Commission to prepare a long range comprehensive plan for the designated natural rivers. The Federal Wild and Scenic River Act states in 82 stat. 908 that within one year from the date of the Act the Secretary will prepare a plan for the administration of the selected river.

In October 1977, the State Natural Resource Commission directed the Michigan DNR to develop a management plan for the Pere Marquette River. The Division of Land Resources Program of the Michigan DNR developed the management plan that was adopted by the Natural Resource Commission in July of 1978. ^{5/} The plan was a joint effort between the DNR and the Pere Marquette advisory group. Zoning by local governments is relied upon for administration of the plan. However, the DNR has the overall responsibility for enforcement of the plan.

The Pere Marquette National Scenic River Plan is in the final stages. The draft plan has been reviewed by both the public and interested government agencies. The planning effort was chaired by the District Ranger of the Baldwin Ranger District, Huron-Manistee National Forests.

Both plans have had considerable public input and each agency has had the opportunity to comment on the other agency's plan during the preparation stages. The following table illustrates the differences and similarities that have surfaced as a result of the separate planning efforts (Table 1).

Table 1

COMPARISON OF THE FEDERAL AND STATE PLANS FOR THE PERE MARQUETTE RIVER

MANAGEMENT PLAN ITEM	<u>SIMILARITIES</u>		<u>DIFFERENCES</u>	
	FEDERAL	STATE	FEDERAL	STATE
1. How Protected	PL 90-542 amended by PL 95.625	State Act 231-PA 1970		
2. Responsible official	Head of organiza- tion in Michigan; Forest Supervisor, Huron-Manistee National Forests	Head of organiza- tion; Director Michigan DNR		
3. When Law Enacted	November 10, 1978	July 13, 1978		
4. Water protected	66.4 miles of mainstream	66.4 miles main- stream		Includes 4 major tributaries (379.7 miles).
5. Area protected			13,054 acre zone	400 ft. either side of river. 3200 acres along main- stream affected.
6. River manage- ment plans	Required & in draft stage; Pere Marquette National Scenic River Mgm't Plan (draft) 12/1/81	Required & complete Pere Marquette River, Natural River Plan July 1978		

MANAGEMENT PLAN ITEM	<u>SIMILARITIES</u>		<u>DIFFERENCES</u>	
	FEDERAL	STATE	FEDERAL	STATE
7. Ownership			11.2 miles (8%)	21.6 miles (17%)
8. New construction (Residential)			Lot size not addressed.	200 ft. lots on main stream & 4 major tributaries. Variances allowed for odd lots.
9. Industrial & commercial developments			Most effective way to screen or pre- vent new commer- cial or industrial developments will be used.	Not allowed within 400' of river.
10. New canoe liveries			Special Use permits issued. Control in this manner. No new permits expected to be issued.	Prohibited. Also prohibits expansion of existing liveries.
11. Building Set- backs			A new structure 25' high cannot be built where it can be seen from the river.	150' min. from ordinary high water mark - decrease 1' for every 1' rise in bank height to min. 100'. Setback min.
12. Building design & screening	Screen developments to meet Visual Quality objectives. Discourage stair- ways & retaining walls.	Encourage use of natural materials and unobtrusive colors. Screen with native vegetation.		

14 MANAGEMENT PLAN ITEM	SIMILARITIES		DIFFERENCES	
	FEDERAL	STATE	FEDERAL	STATE
13. Docks			Not permitted except erosional control device at river's edge.	Discouraged but can build not to exceed 4' wide & 12' long, 4' over water maximum, natural materials, camouflage, log-sod encouraged.
14. On site sanitation	Pollution sources identified & prevented from entering the river.	Conform with State of Mich. specifications.		
15. Signs	Only for direction, safety & interpretation of areas. Identify public & private land. No advertising signs.	Only where necessary then non-lighted 1 sq. ft. in area - 1 per 100' lot. Public signs - rustic.		
16. Soil Erosion	Only minor exceptions permitted to landscape land surface or river bed - only after an environmental analysis made.	Earth changing activities within 500' must meet State of MI specifications. Protect natural vegetation		
17. Minerals			Conducted so as to prevent pollution & impairment of scenery.	Not permitted within 300'. New leases not allowed within 1/4 mile of river.

MANAGEMENT PLAN ITEM	SIMILARITIES		DIFFERENCES	
	FEDERAL	STATE	FEDERAL	STATE
18. Utilities	Only in existing corridors. Utility crossings require DNR approval. Underground under 3 KVA.	New powerlines not permitted in river zone.		
19. Agriculture			Not mentioned	Grazing permitted
20. Natural Vegetative strip	75' strip on private & 150' on public land retained.	75' strip on private & 150' on public land retained.		
21. Removal of vegetation			With few exceptions None on Federal land	Cutting O.K under DNR approval
22. Visual Access			Vegetation within 75' cannot be trimmed	Filtered view cutting allowed
23. Campgrounds & picnic grounds	Some closures, modifications. Camping only at designated camp spots.	Public land - no new structures within 300'. Camping only at designated areas.		
24. Water Access Rest Stops	Mid-way stops needed	Mid-way stops needed		
25. Fishing, Hunting & Trapping	High quality resident & anadromous	Allowed. Emphasize maintaining &		

MANAGEMENT PLAN ITEM	SIMILARITIES		DIFFERENCES	
	FEDERAL	STATE	FEDERAL	STATE
25. Continued	fishery maintained & enhanced. Trails to be added. Lamp-rey weir allowed if Wild & Scenic River Act is amended.	upgrading trout fishery.		
26. Motors	Prohibit above Indian Bridge.	Prohibit above Indian Bridge.		
27. Recreational Controls			Regulate canoe use through landing controls.	Judicial - legislative controls pending.
28. Public Access Sites	Some modification of sites but no new ones. Fishing access trails to be built.	No new boat or canoe access sites		
29. Motorized Vehicles	Prohibited except on designated roads & trails.	Prohibited except on designated road and trails.		
30. Historical & Archaeological Sites	Survey river for sites & protect them.	Encourage identification, preservation & interpretation of sites.		
31. Air Quality			Meet State of MI standards	Not mentioned
32. Law Enforcement			State & city law enforcement	Zoning, local govt's, DNR as final

MANAGEMENT PLAN ITEM	<u>SIMILARITIES</u>		<u>DIFFERENCES</u>	
	FEDERAL	STATE	FEDERAL	STATE
32. Continued			Agreements & Federal law enforcement.	including Environmental Enforcement Division.
33. Plan Updating			Modified as needed. Reviewed at 5 yr. cycles.	Not mentioned
34. Visual Quality			Meet retention & partial retention objectives.	Not mentioned
35. Fire			Modify to minimize ground disturbance.	Not mentioned
36. Pest Management	Monitor & proper actions.	DNR may authorize pest control.		
37. Water Quality	Meet Federal & State standards.	Adhere to non-degradation of water quality.		
38. Land Acquisition			5 priorities established, condemnation allowed.	Only with owner's consent.
39. Interpretive Services	Maps & brochures available. Signing & one to one contact.	Signing as needed		
40. Public Health & Safety			Brochures & signs used.	Not mentioned

Plan Differences

It is interesting to note that of the 40 comparisons made of the Federal and State plans for the Pere Marquette River that in only 6 areas are the plans substantially different.

The six areas to be resolved are: New construction setbacks, docks, visual access, new canoe liveries, recreational controls, and plan updating. A review of the severity of the differences is as follows:

1. New construction setbacks - The Forest Service is reviewing its draft requirements for setbacks. As of this writing it appears that the State setback will be adequate in most cases.
2. Docks - It appears a compromise between the State's zoning specifications and the Forest Service position will be worked out.
3. Visual access - Forest Service is more restrictive.
4. New canoe liveries - State plan more restrictive (no new liveries allowed).
5. Recreational controls - Federal restrictions at present are more restrictive. State restrictions are pending.
6. Plan updating - Federal plan calls for updating in 5 years. State plan does not address updating.

As with the objectives of the Federal and State Wild and Scenic River legislation, the plans are also very similar. It appears the differences that exist could easily be worked out by agreement between the State, Lake and Mason County Zoning Commissions, and the Forest Service. The construction setbacks, docks, and visual access may have to be worked out on a one-to-one basis. This could be done through zoning when permits for buildings are approved in advance of construction.

At this point in the study it becomes obvious that a duplication of effort has already taken place. Two agencies have studied the River, secured public and Government Agency input and developed plans for the River - separately. The next logical question is how to implement overlapping plans.

CHAPTER 4

RECOMMENDATIONS FOR IMPLEMENTING DUAL PLANS

At this point, the opportunity exists to eliminate the duplications of effort and make some decisions as to how the two agencies with separate management plans can best manage the River. At least three alternatives exist. They are:

1. Forest Service manage the River.
2. State of Michigan manage the River.
3. Forest Service and the State of Michigan manage the River in cooperation.

Alternatives one and two have obvious flaws which eliminate them. Neither the State or the Forest Service can legally abstain from their responsibilities of the River. Both agencies have legislative requirements to manage the River. The cooperative action remains the only feasible alternative to managing the River.

Additional meetings between the State and the Forest Service before the planning venture was started would have been helpful. Ideally the plans should have been developed jointly instead of separately. Nevertheless, implementation of the plans can be successful.

Three documents have been prepared and accepted by the Forest Service and the State Natural Rivers Division which stresses local and State zoning should be given priority before harsher methods of control are applied. They are:

- Memorandum of Understanding between the State of Michigan and the Forest Service - dated June 17, 1980. 6/
- The Pere Marquette River Natural River Plan - dated July 1978. (Page 42) 7/
- Government Accounting Office document "Federal protection and preservation of Wild and Scenic Rivers is slow and costly" dated May 22, 1978. 8/

With the three documents either directing or agreed to by both agencies, it seems only feasible that local zoning , as developed by the State plan, be given the first consideration in managing the river. If local zoning is not developed according to the State plan then State zoning will go into effect.

The recommended zoning regulations developed by the State 9/ have been available for the counties to review and guide them in developing their own zoning ordinances. The zoning ordinances elaborate on the protection and restrictive elements described earlier in this paper.

Mason, one of the two counties involved, has developed an ordinance that is now in effect (See Appendix II). Lake County has failed to develop a zoning ordinance and the State of Michigan has notified Lake County that State zoning regulations are now formally imposed on the river zone (See Appendix III).

With the local and State ordinances in effect, the author believes that they need to be given an opportunity to be enacted before the Federal Government imposes its authorities. In all but a few areas the State and local ordinances, adopted from the State plan, cover the same areas as the Federal plan. ^{10/} The exceptions concern land acquisition and control of recreational uses.

Congress has mandated the Secretary of Agriculture to preserve and protect the Pere Marquette River. Through delegation to the Forest Supervisor this will be done. However, with the unique situation of having State involvement in almost the same actions, it would seem only appropriate that the Federal role is to insure the State plan is enforced. How can this best take place? As Priesnitz and Harrison state in "Managing Corridors in Multiple Ownership" coordination and cooperation is essential. ^{11/} Bi-yearly meetings between Michigan DNR and Forest Service officials may be necessary as has happened on the St. Croix River. In that case, a technical committee composed of representatives

of the Minnesota and Wisconsin Department of Natural Resources and the National Park Service meet monthly. All matters having to do with the management of the River are discussed at these meetings.

Two Areas of Substantial Differences

As pointed out previously in the comparison of the State and Federal plans there are several areas where State and Federal plans differ. Most are of a minor nature and can be worked out by formal agreement between the State and the Forest Service. There are two areas of substantial differences. In both instances Federal authorities can assist the State and enhance the River attributes for the user.

Recreational Controls

Harry A. Doehne, Chief Officer of Policy Development, Michigan DNR, gives a detailed account of Michigan's legal problems with canoe controls in his paper titled "Experience in Managing River Recreation and River Use in Michigan." 12/ Briefly, since 1972 the Michigan DNR has been unable to enforce canoe controls on rivers due to lawsuits which have been elevated to the Michigan Supreme Court and then directed back to a lower court. The litigation rests at this point today. Ten years have passed with no legal enforcement on canoe number use on heavily canoed rivers - including the Pere Marquette.

The Federal Government can assume this responsibility until the State is able to do so. Through establishing control through special use permits on commercial liveries using the Federal access points and State access points with formal agreement, the Forest Service can control commercial livery use on the River. The Forest Service is already doing this on the neighboring Pine River. Both agencies' plans address the need for limiting canoe use.

Land Acquisition

The State Natural Rivers legislation limits the State to buying land only on a willing seller - willing buyer basis. The use of condemnation of land is not authorized. ^{13/}

The Federal Wild and Scenic Rivers Act allows the use of condemnation up to a point where 50% of the river zone is in public ownership. ^{14/} An additional 2262 acres are still available to purchase before Federal condemnation authority is no longer available. In addition to condemnation of the property in total, the Federal legislation also permits condemnation of scenic easement or partial interest in properties. ^{15/}

Condemnation authorities are used very sparingly by the Forest Service. However, in a case of gross incomppliance by a landowner with the local and State zoning, the Federal luthority could be exercised and a partial or total condemnation could be made.

Both the Federal and the State plans identified a priority need for midway rest stops between the first two major canoeing stretches. Condemnation methods may have to be used to gain the parcels needed.

The development of the rest stops will require a coordinated effort between the State and the Forest Service. Since both agencies have identified the need it is doubtful this will become a real problem.

Recreational controls and land acquisition authorities are the two areas where the plans differ significantly. After examining these two areas in depth they are issues where cooperation between the two agencies can directly help implement both plans effectively.

CHAPTER 5

SUMMARY AND CONCLUSIONS

Special designation for the Pere Marquette River by the Federal Government and by the State Government has the ability to protect and enhance the River to its fullest. Separate designation by two agencies also has the necessary ingredient to confuse the users and riparian owners. Inefficiencies and bickering among the agencies could result if the duties of the two agencies are not agreed upon and documented. Designation by one level of government probably would have been sufficient. When private land comprises 80 percent of the affected land, such as on Pere Marquette, the process of "who does what" is further complicated. However, after comparing the two legislative acts and the management plans developed for the River some conclusions can be reached as to the respective roles for each agency in managing the River.

Similarities and differences of the two plans are summarized in Table 1.

The two management plans for the Pere Marquette River are very similar. Of the 40 management items examined, nineteen items are very similar, thirteen are slightly different. Ten items need further resolution and only two of which are

substantially different. These two areas, recreation and controls and land acquisition authority can work as a benefit for the River user and manager.

Summary

The objectives of the Federal Wild and Scenic River Legislation and the State of Michigan Natural River Legislation were found to be very similar. Both pieces of legislation called for management plans to be developed for the River. After reviewing and comparing both management plans (the Federal plan is in draft state) it is evident these two are very similar. Two areas - land acquisition authority and recreational controls are substantially different in the plan. However, both areas can best be served by exercising Federal authority. The State of Michigan has only limited funding available for instituting recreational controls on the River (See Appendix IV). This is one area where immediate implementation of the Federal Management Plan can be invaluable in reducing user conflict. The State of Michigan can assume recreational control responsibility when their authorities are available after litigation or legislation action clears the way for them to enact controls. When the State is able to assume the responsibility for controlling recreational canoe use, the Forest Service and State

should formally agree the State should assume the controlling function. At this point the Forest Service would monitor the control and assist the State where needed.

Federal Land Acquisition authorities can assist the State if condemnation is the only way to solve a land use problem. State statutes limit land purchases in the Natural River zones to willing buyer - willing seller purchases only.

Outside of these two exceptions the State of Michigan should be provided the opportunity to protect and enhance the River through their plan. Considering the commitments of both agencies to give priority to local zoning and the minor difference in the two plans, the author recommends a strong role for local and State administration. This will consist of local counties enforcing the local and State zoning which is in effect in the two counties involved. The Federal role should be to insure the State implements their plan. If the State does not uphold its responsibilities, the Forest Service will then have to assume its direction and carry out the provision of its plan.

Conclusions

In cases where problems are occurring, both agencies need to communicate. The State and local governments should be given

ample opportunity to respond to and correct problems. If it is found that the State and local plans are not being followed the Federal authority must be exercised and enforcement taken.

Communication between the State and the Forest Service is a must for this to operate. The two agency river managers need to be in frequent communication to discuss needs and problems. If they cannot be solved on the ground they need to be elevated to the level that can solve them. In some cases the Forest Supervisor and the Michigan DNR Director may have to resolve them. In extreme cases legal action may be necessary - agency against individual or agency against agency, but this can be avoided with cooperation.

As a plus to dual designation, in times of economic uncertainty, such as Michigan is currently going through, two agencies cooperating can implement the plans that one agency could not afford to do. As an example, Governor William Milliken, in his last economic address, said the Natural Rivers program would be without personnel (See Appendix IV). Should this happen the Forest Service and State could agree to additional Forest Service involvement until the State program is refinanced.

It is suggested that in the future the implementation of the designation of a river as Wild and Scenic or other common

designation by more than one agency be well researched.

Plans should be developed in unison and discrepancies worked out at that point.

As a result of studying the legislation of both the State of Michigan and Federal Government, leading up to the designation of the Pere Marquette River "scenic" and the management plan that followed several recommendations can be made.

Pre-plan Coordination

Should additional rivers in the State of Michigan be given special dual designation, the agencies need extensive meetings to understand the other agency's legislation prior to formulating management plans for the river.

Management Plan Formulation

Management plans for the dually designated rivers should be developed together if possible. One plan endorsed by both agencies with responsibilities spelled out would be superior to two management plans covering the same body of water and shoreline.

Differences in concepts and need for restrictions should be worked out prior to developing the plan or during the planning stages. Give and take will be needed by both agencies during this period. The art of compromise will play a significant role.

Public hearings and input can be consolidated at this time. Input should be more valuable rather than asking the public twice for input on the same subject.

Management Plan Implementation

The two plans for the Pere Marquette River are actually to the point of being implemented. The State River Plan has been available since 1978. However, rules for enforcement of the plan became effective in July 1981. The Forest Service plan should be ready for implementation by summer of 1982.

Before both plans are implemented, the two agencies need to review all parts of each plan together. Actions for each agency should be agreed upon.

The primary issue for the summer of 1982 will be canoe control use on the River. The public is expecting some controls to be implemented and enforced. ^{16/} By formal memorandum, the responsibility for this action should be spelled out.

A memorandum of understanding is further needed to resolve any of the issues which may differ in the State and Forest Service plans.

Yearly or bi-yearly if needed, the River managers and the Supervisors need to meet to communicate problems and successes. At that point minor discrepancies or problems can be

identified and solutions proposed. Communications will be the key to making the two plans work.

Plan Updating

During the yearly or bi-yearly meetings, the river management plan should be reviewed for updating. This should be a formal process with the addendums signed by the proper officials. At a future date it may become possible to integrate the two management plans into one. This is a worthwhile goal.

Communication will be the key to success. The Forest Service and State River managers must be in contact very often to discuss problems occurring on a dual-designated River. With cooperation among the River managers and frequent meetings of management, the dual designation can work to enhance and preserve the intrinsic qualities for which a scenic river gained its recognition.

LITERATURE CITATIONS

- 1/ Wild and Scenic Rivers Act of October 2, 1968. Public Law 90-542 (82 Stat. 906; 16 U.S.C. 1271-1273, 1274(a), 1275(a)).
- 2/ Pere Marquette River Addition - Wild and Scenic Rivers Act Amendments - Public Law 95-625 - November 10, 1978.
- 3/ Natural River Act of 1970, Act 231, 1970, p. 622, effective April 1, 1971. State of Michigan.
- 4/ General Memorandum of Understanding Between the State of Michigan, Department of Natural Resources, and the Forest Service, U.S.D.A., concerning plan preparation and management of the Pere Marquette National Scenic River Area, June 17, 1980, U.S.D.A Forest Service Memorandum.
- 5/ Pere Marquette River Natural River Plan - July, 1978. Division of Land Resources Programs, Department of Natural Resources, State of Michigan.
- 6/ Op. cit. 4/.
- 7/ Op. cit. 5/.
- 8/ Federal protection and preservation of Wild and Scenic Rivers is slow and costly - Comptroller General Report to Congress - May 22, 1978, p. IV. G.P.O number CED-78-96.
- 9/ Local Zoning to Protect Designated Natural Rivers - a Guide for Citizens and Local Officials, State of Michigan, Department of Natural Resources publication by the Division of Land Resources Program - 1978.
- 10/ Mason County Zoning Ordinance - A land use ordinance for Mason County, Mason County Board of Commissioners - Section 11-10 - December 13, 1971.
- 11/ Harrison, James and Michael F. Priesnitz, "Managing Corridors in Multiple Ownership," In: Proceedings; River Recreation Management and Research Symposium, U.S.D.A., January 24-27, 1977.
- 12/ Doehne, Harry A., "Experiences in Managing River Recreation and River Use in Michigan", In: Proceedings; River Recreation Management and Research Symposium, U.S.D.A., - January 24-27, 1977.

13/ Op. cit. 3/, p. 622, effective April 1, 1971.

14/ Op. cit. 1/.

15/ Op. cit. 1/.

16/ Comments from Public Meetings on Draft Plan Held at
Ludington and Baldwin, Michigan - October 16-17, 1981,
U.S.D.A. Forest Service notes.

GENERAL MEMORANDUM OF UNDERSTANDING
BETWEEN THE STATE OF MICHIGAN,
DEPARTMENT OF NATURAL RESOURCES AND THE
FOREST SERVICE, UNITED STATES
DEPARTMENT OF AGRICULTURE CONCERNING
PLAN PREPARATION AND MANAGEMENT OF THE
PERE MARQUETTE NATIONAL SCENIC RIVER AREA

The Pere Marquette River in Michigan was designated a component of the National Wild and Scenic Rivers System on November 10, 1978. The responsibility for developing and implementing the federal river management plan was given to the United States Forest Service with the intent that it be accomplished after consultation with State and local governments and the interested public.

On July 13, 1978, the Pere Marquette River, including many of its significant tributaries, was designated as a State Wild-Scenic River under authority of Michigan's Natural River Act. As a component of both Federal and State Scenic River Systems, planning for and management of the river corridor is of deep concern to both the State of Michigan and the Forest Service. Therefore, the Director of the Michigan Department of Natural Resources and the Forest Supervisor of the Huron-Manistee National Forests mutually agree to the following concerning preparation of the federal river management plan and administration of the Pere Marquette National Scenic River Area:

1. The Department of Natural Resources will participate in the following steps of the management planning process:
 - identification of issues, concerns, and demands affecting the National Scenic River Area
 - determination of data needed and the inherent capability of the natural resource base
 - development of management alternatives for each issue and concern
 - review and assessment of each alternative
 - selection of preferred alternative
2. The Michigan Department of Natural Resources and the Forest Service shall strive for general concurrence on the provisions of the Federal River Management Plan which may impact state-owned property or affect state regulated activities prior to submission of the plan to the Regional Office of the Forest Service for approval.
3. The Forest Service and Michigan Department of Natural Resources will strive for general concurrence on any amendments or changes in either the State or Federal river plan which would affect the management or authority of either agency.

2.

4. The Forest Service acknowledges that traditional areas of State jurisdiction, together with existing State-owned interests, State river bed and water surface rights together with access rights thereto, and State interests in river tributaries located within the National Scenic River Zone will be generally unaffected by the federal river zone management to the extent that such jurisdiction or rights are or may be exercised without impairing the purposes of the National Wild and Scenic Rivers Act or its administration, [Pub. L. 90-542 § 13(d); 16 U.S.C. 1284(d)]. Within the above referenced parameters, the Michigan Department of Natural Resources agrees to take an active role in the management of the National Scenic River Zone as follows:
 - a. The Department of Natural Resources will continue its legislated role in management of private and State-owned lands, fisheries, wildlife, water quality, conservation, law enforcement, submerged lands, watercraft, and other recreational uses of the water. Federal involvement in such management may be specifically authorized by separate written agreement between the two agencies.
 - b. The Department of Natural Resources is committed to manage the natural resources in conformance with the Pere Marquette Natural River Plan, as adopted by the Michigan Natural Resources Commission on July 13, 1978. It is acknowledged that such management will protect and enhance the broad range of natural, aesthetic, and recreational values of the Pere Marquette National Scenic River Area.
5. The United States Forest Service recognizes the value of Michigan's Natural River Act in protecting and enhancing the broad range of values of the Pere Marquette River system. The Forest Service further acknowledges that land and water management along and within the streams tributary to the Pere Marquette, can greatly impact upon the quality of the Pere Marquette Scenic River Area. Therefore, the Forest Service agrees that, where feasible and compatible with its general land use planning and management concepts and goals, management of Forest Service lands and programs, located along or related to the Scenic River's tributaries, shall follow as closely as possible the provisions of the State's Pere Marquette River Natural River Plan, as adopted by the Natural Resources Commission on July 13, 1978.

3.

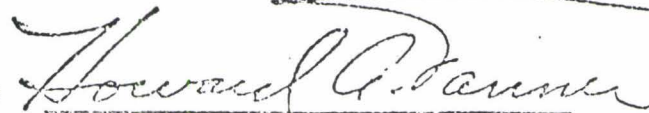
6. In preparing the federal river plan, the following priority sequence will be evaluated for their effectiveness in protecting river values:

- (1) Local zoning by townships and/or counties
- (2) State administered zoning authorized under Act 231, PA 170
- (3) Scenic easements
- (4) Fee title ownership

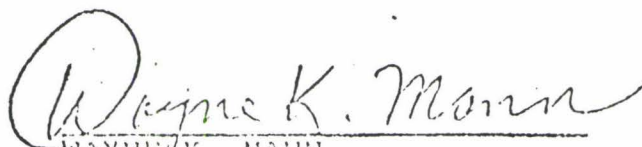
7. Preparation of the federal river plan will include a general analysis of Federal financial assistance programs available to State and local governments for their roles in management of the National Scenic River Area. Where deemed appropriate and consistent with the purposes of the National Wild and Scenic Rivers Act, the federal plan will include statements of support for such assistance.
8. The individual in charge of Michigan's Natural Rivers program in the Department of Natural Resources, will serve as the Department's contact with the USDA, Forest Service, in this planning effort. He will be responsible for soliciting input from, and coordinating responses of, the following Department divisions: Water Management, Fisheries, Wildlife, Waterways, Law Enforcement, Land Resource Programs, Forest Management, Water Quality, Environmental Enforcement, Geology, Lands and Resource Recovery. Differences of opinion between divisions will be resolved by the appropriate Deputy Directors.
9. The Recreation Staff Officer of the Huron-Manistee National Forests will serve as contact with the Michigan Department of Natural Resources.
10. Those individuals identified in items 8 and 9 shall meet annually to discuss and seek agreement on all matters which may affect management and protection of the Pere Marquette River area as either a component of Michigan's Natural River System or the National Wild and Scenic River System.

DATE: June 17, 1980

BY:



HOWARD A. TANNER, Director
Michigan Department of
Natural Resources



WAYNE K. MANN
Forest Supervisor
Huron-Manistee National Forests

Section 11-10 Natural River District (NR) APRIL 15, 1980Effective DateA. Purpose

This district is designed to preserve, protect and enhance the river environment in a natural state for the use and enjoyment of present and future generations by:

1. Maintaining water quality consistent with the designated classification of the river and adhering to the concept of nondegradation of water quality.
2. Prohibiting development activity which may endanger the ecologic, aesthetic or historical values of the river and adjacent lands.
3. Insuring that any development which may occur, be done in an orderly manner consistent with the natural environment and aesthetic qualities of the stream.
4. Insuring that recreational uses which occur, are conducted in an orderly manner consistent with the natural environment and aesthetic qualities of the stream, and that a quality recreation experience is maintained.

B. Area Affected

The Natural River District is described as follows: All that land in an area between the shoreline of the designated waters and a line four hundred (400) feet from and parallel to the shoreline of said waters, except within incorporated limits. Properties that lie in this district but do not front on the river may be used for those uses permitted in this district; except that structures thereon shall be sited as closely in conformance with the standards and objectives of this district as is reasonable and necessary to insure the purposes and intent of this district are met.

1. All channels of the Pore Marquette River, including the mainstream and the Big South Branch, to include the following tributaries:

- a. Swan Creek from Darr Road in Eden Township to its confluence with the Pere Marquette River.
- b. Weldon Creek from the outfall of Romeo Lake in Section 9, Branch Township to its confluence with the Pere Marquette.
- c. Roby Creek from the Mason County Line, Section 3 $\frac{1}{4}$, Logan Township, to its confluence with the Big South Branch.
- d. Carr Creek excluding that portion of the stream which branches north in Section 14, Logan Township, from Mason-Lake boundary, Section 13, Branch Township, to its confluence with the Big South Branch.

C. Permitted Uses: Permits issued under the provisions of this section must comply with performance standards and conditions of approval listed in Section 11-11. The following uses are permitted in this district:

1. Single family dwelling (one per lot or parcel).
2. Gardening and farming, in compliance with paragraph I below.
3. Home occupation.
4. Harvesting of wild crops such as trees, hay, marsh grasses, ferns, moss, berries and other resources. The harvest of which is not contrary to law and is not in conflict with paragraph I below.
5. One boat dock per dwelling, provided the dock is constructed not to exceed four (4) feet in width nor more than twelve (12) feet in length with not more than four (4) feet of the dock extending over the water. A valid permit must also be obtained under the provisions of Act 346, P.A. 1972.
6. Signs under the provisions of paragraph J below.
7. Any other structure or use clearly accessory to a permitted use.

D. Uses by Special Permit as Provided by Section III-9:

1. Commercial uses such as photography studio, beauty shop, home repair, insurance or other businesses which do not alter the residential nature.
2. Detached rental cabins.
3. Mobile homes as regulated in Section III-4.

E. Minimum Lot Size: On lots created by land contract or deed executed and delivered after the effective date of this section (11-10).

40,000 sq. ft. (Mainstream & Big South Branch)

30,000 sq. ft. (Tributaries)

F. Minimum Frontage at Water: On lots created by land contract or deed executed after the effective date of this section (11-10).

200 feet (Mainstream & Big South Branch)

150 feet (Tributaries)

G. Minimum Yard Requirements:

1. Mainstream and Big South Branch:

Setbacks from water's edge. No structure or appurtenance will be constructed closer than 150 feet from the ordinary high water mark as measured on a horizontal distance except that for every 1 foot of bank height above the ordinary high water mark, a principal structure may be placed 1 foot closer to the water's edge to a minimum of 100 feet.

2. Tributaries:

Setbacks from water's edge. No structure or appurtenance will be constructed closer than 100 feet from the ordinary high water mark as measured on a horizontal distance except that for every 1 foot of bank height above the ordinary high water mark, a principal structure may be placed 1 foot closer to the water's edge to a minimum of 75 feet.

3. No building or structure shall be constructed closer than twenty-five (25) feet from the rear lot line or road right-of-way at the rear of the lot.

4. Minimum side yard setback shall be twenty-five (25) feet.

H. Minimum Floor Space (ground floor level) and Building Height of any Permanent Principal Building: Six hundred (600) square feet minimum floor space and maximum building height of thirty-five (35) feet to peak of roof, excluding chimney on permanent principal buildings in this district.

I. Native Vegetation Strip:

1. Within the district, a seventy-five (75) foot minimum restricted cutting strip shall apply on each side of the mainstream and the Big South Branch. On all other designated tributaries, a fifty (50) foot restricted cutting strip shall apply. Distances of the natural vegetation strip are measured horizontally from the ordinary high water mark.
2. Restricted cutting and removal of vegetation. Restricted cutting of dead, diseased, unsafe or fallen trees is allowed. Removal of trees for commercial timber harvest, access or woodlot improvement shall be allowed upon specific approval of the zoning administrator or his representative in a manner consistent with the purpose of this district.
3. Selected cutting for visual access. Trees and shrubs may be selectively pruned or removed for a filtered view of the river upon approval of the zoning administrator or his representative. Filtered view means sufficient density to screen new developments from the river, provide for streambank stabilization and erosion control, serve as an aid to infiltration of surface water runoff and provide cover to shade the water. It need not

be so dense as to completely block the river view. It means no clear cutting.

4. Agriculture. Grazing will be permitted under the provisions of Act 245, P.A. 1929.

J. Signs:

Only those signs necessary for: (a) identification, (b) direction, (c) resource information, (d) regulation of use, and (e) related to permitted uses, shall be placed along the designated river and tributaries. Within the Natural River District, signs for the sale of products or services shall be prohibited. No trespassing and no hunting signs are permitted. Signs within the Natural River District must be:

- a. Not illuminated.
- b. In conformance with the following standards:

Signs may not be larger than one square foot in area posted no more than one per 100 feet or one sign posted at the upstream and downstream corner of lot. However, one temporary real estate "For Sale" sign per parcel of land not to exceed four square feet in area shall be allowed outside of the natural vegetation strip (as described in Section G).

K. Prohibited Uses:

1. Any uses not similar to those listed in Section 11.10 A. Permitted Uses, and B. Uses by Special Permit.
2. Industrial uses and buildings.
3. Other commercial uses and buildings not specifically permitted, such as, but not limited to, gas stations, motels, restaurants, and retail stores.

Section 11-11. Pere Marquette Site Plan Review.

- A. Lots Subject to this Section: It is the purpose of this section to authorize uses and structures permitted within the Natural River District in Section 11-10 to be constructed or located less than the minimum 150 feet from the ordinary high water mark, when after site plan review conformance with this ordinance is achieved. Any lot which is of insufficient width, depth or area to accommodate a permitted use, and is described in a land contract or deed executed and delivered prior to the effective date of Section 11-10 of this ordinance, shall be required to comply with the terms and requirements of this section of the County Zoning Ordinance in order to be used for a use permitted in Section 11-10. No application shall be approved that would result in a principal structure being located on land that is subject to flooding or lead to material degradation of the river resource. Approval shall also be contingent upon conformance with the spirit and intent of Michigan's Natural River Act, Act 231, P.A. 1970, and is in addition to the requirements of Section 11-10.
- B. Site Plan Application: Application for site plan review shall be filed in writing with the zoning administrator on a form supplied for that purpose. Accompanying each application for a site plan shall be:
1. Two (2) copies of a site plan giving accurate dimensions on a scale drawing that show:
 - a. Lot lines and dimensions of the lot.
 - b. Location and size of all existing and proposed structures on the lot, including all accessory structures (such as garages, signs, fences, pathways, and docks).

- c. Existing vegetative cover and any area where trees and shrubs are proposed to be removed or added. All trees over three (3) inches in diameter at breast height must be individually shown and indicated as either coniferous or deciduous.
 - d. Existing and intended uses of proposed structures and land uses.
 - e. Elevation and slope of the property where each lot line intersects the ordinary high water mark, the landward side of the natural vegetation strip, the river front setback line, and the front lot line.
 - f. Location of: existing water bodies including ponds, wetlands and drainage ways; rock outcrops, the bluffline; and other natural features which create constraints or opportunities for development consistent with the objectives of the natural river designation and the natural characteristics of the site.
 - g. Existing and proposed public and/or private roads, streets, easements, rights-of-way, or other reservations of land.
 - h. The extent of any flood plain known to the applicant.
 - i. Location of all existing and proposed utilities, driveways, parking, and loading areas.
 - j. If lot development is not to be completed in one year, then each part of the lot to be developed and its timing shall be so indicated.
2. Evidence of ownership of all property included in the application, including the name and address of both the property owner and the applicant.
 3. Copies of all require federal, state and local permits (except for a building permit).
 4. Other information as the zoning administrator may require due to special conditions of the site, or the complexity of the proposed development, that will insure the intent and requirements of this ordinance are fulfilled.

C. Performance Standards: Compliance with the following criteria is necessary to receive approval from the zoning administrator of an application submitted under this section. After review of the site plan application, and upon inspection of the proposed site, the zoning administrator shall make findings that the proposed location of all proposed uses and structures, except boat docks, do or do not comply with the following criteria:

1. A permit issued by the soil erosion and sedimentation control officer of the county has been secured as is necessary.
2. As viewed upstream on the river the proposed structure (s) or use (s) will blend with natural foliage and geological conditions indigenous to the natural river landscape in a leaf off setting so as to be harmonious in color and texture with the natural river landscape.
3. The principal structure shall not be located on land that is subject to flooding based upon the best available information.
4. The existing water quality will not be reduced.
5. Fish and wildlife habitat will not significantly be altered or impaired.
6. Where a proposed principal building will be less than 20 feet in height at its highest point, excluding chimneys, the setback may be decreased to a minimum of 100 feet landward of the ordinary high water mark on the mainstream and Big South Branch and 75 feet landward of the ordinary high water mark on a tributary, except as otherwise restricted by 8 below.
7. Where a proposed principal building will be greater than 20 feet, but less than 35 feet in height at its highest point, excluding chimneys, the setback may be decreased to a minimum of 125 feet landward of

the ordinary high water mark on the mainstream and 100 feet landward of the ordinary high water mark on a tributary, except as otherwise restricted by 8 below.

8. In permitting a reduced setback pursuant to 6 and 7 above, no reduction in the minimum natural vegetation strip is permitted nor may either a principal or accessory building be setback less than 25 feet from the top of a bluff on the noncutting edge of the river nor less than 50 feet from the top of a bluff on the cutting edge of the river.

D. Conditions of Approval: The zoning administrator may impose reasonable conditions in granting a land use permit which are necessary to insure compliance with this ordinance and protect the values embodied in the designation of the Pere Marquette River. Such conditions must be consistent with the performance standards of Section 11-10 and may include but not be limited to:

1. Requiring that tree and other foliage of a suitable density and type, native to the landscape of the natural river area, be planted within the natural vegetation strip to provide for screening of the structure from the river and/or erosion control.
2. Requiring that the exterior of the structure visible from the river be constructed and maintained in muted earth tones and where practical be constructed of natural materials indigenous to the natural river area.
3. Requiring that where there is a steep bank or bluff, any access to the river shall be by means of a stairway or path constructed in a manner to minimize erosion and not detract from the natural landscape.
4. Requiring that a performance guarantee, either cash bond or other negotiable instrument acceptable to the county, be obtained from the applicant to insure all required conditions are met. After notification

that a property owner holding a permit issued under this section is in violation of the permit, a hearing shall be held to determine why the guarantee should not be forfeited to make site changes consistent with the permit. After the hearing and decision by the board of appeals, all or any portion of the guarantee may be forfeited when findings of the board of appeals establish the applicant has failed to meet all or any part of the conditions attached to a land use permit.

5. Evidence that all federal, state and local permits have been obtained (except a building permit).

E. Consultation: Before issuing approval of any site plan, the zoning administrator may consult or seek the advice of the zoning commission, personnel from the Michigan Department of Natural Resources, U.S. Forest Service, Soil Conservation Service, or any other agency or individual having expertise in the fields of forestry, wildlife, water quality, fisheries, landscape architecture, geology, hydrology soils, public health and sanitation.

F. Approval or Denial:

1. Upon approval of a site plan by the zoning administrator one (1) copy of the site plan shall be returned to the applicant along with a land use permit with those conditions attached, if any. Failure to comply with a land use permit and all conditions attendant thereto, is a violation of this ordinance. The zoning administrator shall keep on permanent file all applications received for a site plan review, a copy of the site plan, the action taken and the reasons for that action. Any application for a permit that is denied shall be done so in writing with findings and reasons specified and one (1) copy returned to the applicant.

2. Upon issuance of any permit under this section, the zoning administrator shall cause a record of the permit and all conditions attached thereto, to be recorded with the County Register of Deeds and attached to the deed. .

Due to the unusual terminology connected with a "Natural River District" the following definitions have been added to this section for the purpose of clarification:

Definitions.

- a. "Appurtenance" a structure incidental to a dwelling, including, but not limited to, garages, private access roads, pump houses, wells, sanitary facilities, and electrical service lines.
- b. "Bluff" the top of a steep bank rising sharply from the water's edge of a river or stream.
- c. "Cutting edge of the river" the outside edge of a river or stream where water velocity has increased to the point where it may cause soil or stream bank erosion.
- d. "Filtered view of the river" the maintenance or establishment of woody vegetation of sufficient density to screen developments from the river, to provide for streambank stabilization and erosion control, to serve as an aid to infiltration of surface runoff, and to provide cover to shade the water. The vegetation need not be so dense as to completely block the river view. It means no clear cutting.
- e. "Lot of record" a lot that actually exists in a subdivision plat as shown on the records of the county register of deeds before the effective date of these rules, or a lot or parcel described by metes and bounds, the description of which has been recorded as required by law.
- f. "Ordinary high-water mark" the line between upland and bottomland which persists through successive changes in water level, and below the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation.

- g. "River's edge" the ordinary high-water mark as used in Act No. 346 of the Public Acts of 1972, being 281.951 et seq. of the Michigan Compiled Laws, and as defined in rule 1 (p).
- h. "Setback" the horizontal distance between any portion of a structure and the river's edge, measured at the structure's closest point to the river's edge.
- i. "Structure" anything constructed, erected, or moved to or from any premise, which is located above, on, or below the ground, including, but not limited to roads, signs, billboards, and mobile homes. Temporary recreational facilities, including, but not limited to, tents, camper trailers, and recreation vehicles are not considered structures.
- j. "Upstream" opposite of the direction of water flow.

D R A F T

PERE MARQUETTE RIVER SITE PLAN CHECKLIST

- ☐ DATE PARCEL RECORDED IN REGISTER OF DEEDS
- ☐ LOT LINES & DIMENSIONS OF LOT
- ☐ LOCATION OF ALL EXISTING STRUCTURES
(Such as garages, fences, signs, pathways & docks)
- ☐ LOCATION OF ALL PROPOSED STRUCTURES
- ☐ EXISTING VEGITATIVE COVER
- ☐ EXISTING AND INTENDED USE OF STRUCTURES
- ☐ HEIGHT OF BANK ABOVE WATER LEVEL
- ☐ LOCATION OF WATER BODIES, WETLANDS & DRAINS
- ☐ EXISTING PUBLIC OR PRIVATE ROADS/STREETS
- ☐ PROPOSED PUBLIC OR PRIVATE ROADS/STREETS
- ☐ EXISTING FLOOD PLAIN
- ☐ PORTION TO BE COMPLETED IN ONE YEAR
- ☐ PERFORMANCE BOND OR CASH DEPOSIT REQUIRED _____

(b) To protect the free-flowing condition, fish and wildlife resources, water quality, scenic and aesthetic qualities, and historical and recreational values of the Pere Marquette river and adjoining land.

(c) To prevent flood damages due to interference with natural flood plain characteristics by excluding developments which are vulnerable to flood damages and which may reduce the capacity of the floodway of the river to withstand flooding conditions.

(d) To provide for residential and other compatible permitted uses that complement the natural characteristics of the natural river system.

(e) To protect individuals from buying or developing lands which are unsuited for building purposes.

R 281.103 Boundaries; rules of construction; display and filing of zoning map; effect of zoning rules.

Rule 3. (1) The boundaries of the Pere Marquette river natural river district shall be as hereinafter described and as depicted on the certified Pere Marquette river natural river zoning map. The Pere Marquette river natural river district comprises an area described as follows:

(a) The mainstream of the Pere Marquette from the junction of the middle branch and the little south branch, commonly known as the "Forks", located in Lake county, to the U.S. 31 highway bridges in Mason county, excluding that portion of the river within the city of Scottville.

(b) Swan creek from Darr road downstream to its confluence with the Pere Marquette river.

(c) Weldon creek from the outfall of Romeo lake downstream to its confluence with the Pere Marquette river.

(d) The big south branch from the confluence of Beaver creek with Winnebago creek downstream to its confluence with the Pere Marquette river.

(e) Cedar creek from M-37 downstream to its confluence with the big south branch.

(f) Ruby creek from its source in section 6, township 16 north, range 15 west, downstream to its confluence with the big south branch.

(g) Carr creek, excluding that portion of the stream which branches north in section 14, township 17 north, range 15 west, from north branch road downstream to its confluence with the big south branch.

(h) Sweetwater creek from its source in section 21, township 18 north, range 14 west, downstream to its confluence with the Pere Marquette river.

(i) Kenney creek from the outfall of Wingleton lake in section 31 of township 18 north, range 13 west, downstream to its confluence with the Pere Marquette river.

(j) Danaher creek from the C & O railroad in section 27, township 17 north, range 13 west, downstream to its confluence with the Pere Marquette river.

(k) The Baldwin river, excluding that portion in the village of Baldwin, from the outfall of the widewaters in section 22, township 19 north, range 12 west, downstream to its confluence with the Pere Marquette river.

(l) Cole creek to its confluence with the Baldwin river, including the north branch of Cole creek, from big spring in section 15, township 18 north, range 12 west, downstream to its confluence with the south branch of Cole creek; the south branch of Cole creek from the east line of section 21, township 18 north, range 12 west, downstream to its confluence with the north branch of Cole creek.

(m) Bray creek from the outfall of Bray lake in section 26, township 18 north, range 13 west, downstream to its confluence with the Baldwin river.

(n) Sandborn creek, excluding that portion in the village of Baldwin, from State road downstream to its confluence with the Baldwin river.

(o) Leverentz creek from the outfall of Leverentz lake in section 35, township 18 north, range 13 west, downstream to its confluence with the Baldwin river.

(p) The middle branch from Bonney road downstream to the "Forks".

(q) Blood creek from its source in township 17 north, range 12 west, downstream to its confluence with the middle branch.

(r) The little south branch from U.S. forest service road 5309 where it crosses the stream in section 9, township 15 north, range 12 west, downstream to the "Forks".

(s) McDuffee creek from 13 Mile road, township 16 north, range 12 west, downstream to its confluence with the little south branch.

(t) The Pease creek system, all of which lies in township 18 north, range 12 west, Newaygo county.

(u) The lands lying within 400 feet of the river's edge enumerated in subdivisions (a) to (t) of this subrule.

(2) Certified copies of the Pere Marquette river natural river zoning map shall be filed with the local tax assessing officers and with the state tax commission, and additional display copies shall be provided to local officials in the Pere Marquette river area, including all of the following:

- (a) County register of deeds.
- (b) Zoning administrator of these rules.
- (c) Local planning, zoning, and health officials.
- (d) Township and county clerks.
- (e) Local building inspector.
- (f) Local soil erosion and sedimentation control enforcement agencies.
- (g) The soil conservation service.
- (h) Soil conservation district.

(3) These zoning rules do not repeal, abrogate, or impair any existing easements, covenants, or deed restrictions applicable to lands within the natural river district, except that where these rules impose greater restrictions than those found on such easements, covenants, or deeds, the provisions of these rules shall prevail.

(4) These zoning rules do not permit actions prohibited by other statutes or ordinances, including zoning ordinances, applicable to the natural river district. Therefore, all of the following provisions apply:

(a) All earth-changing activities, other than normal landscaping or maintenance, undertaken within 500 feet of a lake or stream are subject to the provisions of Act No. 347 of the Public Acts of 1972, as amended.

(b) All dredge and fill activities and construction of permanent structures lying below the ordinary high-water mark are subject to the provisions of Act No. 346 of the Public Acts of 1972.

(c) All development and land uses in the Pere Marquette river natural river district are subject to the provisions of appropriate local zoning ordinances, health codes, and building codes, including requirements for permits and approvals.

(5) Where uncertainty exists with respect to the boundaries indicated on the Pere Marquette river natural river zoning map, all of the following rules shall apply:

(a) Boundaries that are indicated as approximately following streets or highways shall be construed to be the center lines of the streets or highways.

(b) Boundaries that are indicated as approximately following lot lines shall be construed as following such lot lines.

(c) Boundaries that are indicated as approximately following city, township, or county boundary lines shall be construed as following such city, township, or county boundary lines.

(d) Boundaries that are indicated as approximately following railroad lines shall be construed to be midway between the main tracks.

(e) Boundaries that are indicated as approximately parallel to the center lines of streets or highways shall be construed as being parallel thereto and at such distance therefrom as indicated on the official Pere Marquette river natural river zoning map. If no distance is given, the dimension shall be determined by the use of the scale shown on the official Pere Marquette river natural river zoning map.

(f) Boundaries that follow the shoreline of a river, stream, lake, or other body of water shall be construed to follow such shoreline and, in the event of change in the shoreline, shall be construed as moving with the actual shoreline. Boundaries that are indicated as approximately following the thread of streams, canals, or other bodies of water shall be construed to follow such threads.

R 281.104 Zoning permits; application; additional requirements.

Rule 4. (1) A person shall not commence excavation, erection, alteration, or repair of a building or structure, or commence a land use, until a zoning permit has been obtained from the zoning administrator. If the alternations and ordinary maintenance made on a dwelling do not change the character of the structure or land use, and if the total cost does not exceed 5% of the market value of the structure in any 12-month period, the owner of the structure or land is exempt from obtaining a zoning permit, but may be required to obtain a local building permit from the appropriate local building inspector.

(2) A written application for a zoning permit shall be filed with the zoning administrator. All of the following materials shall be submitted with an application for a zoning permit:

(a) Two copies of a site plan which give accurate dimensions on either a scale drawing or a rough sketch and which contain all of the following information:

(i) The location on the lot of all existing and proposed structures.

(ii) The existing or intended use of the structures.

(iii) The generalized vegetative cover.

(iv) The lines and dimensions of the lot to be used.

(b) Evidence of ownership of all property affected by the coverage of the permit.

(c) Evidence that all required federal, state, county, and township licenses or permits have been acquired or that applications have been filed for the licenses or permits.

(d) Other information, as required by the zoning administrator, which is necessary to carry out the intent and provisions of these rules.

(3) One copy of both site plans and specifications shall be filed and retained by the zoning administrator, and the other copy shall be delivered to the applicant when the zoning administrator has approved the application, completed the site inspection, and issued the zoning permit. To insure that new land uses in the natural river district are in conformance with these rules, before beginning construction or commencing a land use, the applicant shall display a permit required by these rules face out in a conspicuous place facing the nearest street or roadway and shall display it continuously until the purpose for which the permit was issued is completed. Failure to obtain and display a permit is a violation of these rules.

(4) Within 30 days of receipt of a completed application, the zoning administrator shall render a decision to issue or deny a permit. If a permit is denied, notice of the denial, together with the reasons for the denial, shall be sent to the applicant.

(5) Zoning permits are valid for 1 year and are not transferable. All buildings shall be completed within 1 year from the date of issuance of the zoning permit. However, 1 extension may be authorized by the zoning administrator, in writing, for a period of time not to exceed 6 months. Any subsequent extensions shall have the written approval of the zoning review board.

R 281.105 Subdivision of land; plats with preliminary approval.

Rule 5. (1) A lot that exists on the effective date of this rule, or amendment thereto, shall not be subdivided or reduced in dimension or area below the minimum requirements of these rules. Lots created after the effective date of this rule shall at least meet the minimum requirements of these rules, except as provided in subrule (2) of this rule.

(2) Proposed lots which have preliminary plat approval pursuant to Act No. 288 of the Public Acts of 1967, as amended, being §560.101 et seq. of the Michigan Compiled Laws, but which do not meet the dimensional requirements of these rules on their effective date, shall, upon final plat approval, be issued a permit subject to the requirements provided in R 281.109.

R 281.106 Permitted uses.

Rule 6. (1) The following uses are permitted by the owner upon the owner's property within the natural river district, subject to the limitations and requirements outlined in these zoning rules, local ordinances, and other applicable statutes:

(a) Private camping and other recreational activities which do not require the installation of permanent structures and which are outside of the natural vegetation strip.

(b) Operation of watercraft, subject to the limitations of local ordinances established under the authority of Act No. 303 of the Public Acts of 1967, as amended, being §281.1001 et seq. of the Michigan Compiled Laws.

(c) Fishing and hunting in compliance with existing laws and rules.

(d) Reforestation and other accepted forest management practices, subject to the limitations outlined in R 281.107.

(e) Normal agricultural activities, if the activities meet the requirements of these rules, and if the bureau of environmental protection of the department of natural resources determines that such activities do not contribute to stream degradation.

(f) Operation of licensed motor vehicles on dedicated public roads or access roads to private single-family dwellings.

(g) Off-road operation of emergency and public utility maintenance vehicles.

(2) The following uses are permitted upon approval of the zoning administrator:

(a) One single-family dwelling and appurtenances, subject to the following limitations:

(i) On the designated portion of the mainstream, big south branch, little south branch, middle branch, and Baldwin river, minimum lot width shall be 200 front-feet wide and the setback shall be 150 feet from the ordinary high-water mark, except that for every 1 foot of bank height above the ordinary high-water mark, the new structure may be placed 1 foot closer to the river to a minimum of 100 feet.

(ii) On all other areas within the Pere Marquette natural river zoning district, the minimum lot width shall be 150 front-feet wide and the setback shall be 100 feet from the ordinary high-water mark, except that for every 1-foot rise of bank height above the ordinary high-water mark, the new structure may be placed 1 foot closer to the river to a minimum of 75 feet.

(iii) New structures shall not be closer than 50 feet from the top of the bluff on the cutting edge of the river and tributaries, or 25 feet from the top of the bluff on the noncutting edge of the stream.

(iv) Setback shall be not less than 15 feet from side lot lines and not less than 25 feet from the right-of-way of a public road.

(v) New structures shall not be located on land that is subject to flooding.

(b) Plats, if the minimum setbacks and lot width requirements specified in subdivision (a) of this subrule are met.

(c) Private boat docks that do not exceed 4 feet in width or 20 feet in length, with not more than 4 feet of the dock extending over the water, if designed, constructed, and maintained with indigenous natural materials, and if a permit is issued under the authority of Act No. 346 of the Public Acts of 1972.

(d) Mining and extractive industries if they are located more than 300 feet from the ordinary high-water mark, and if they are constructed and operated pursuant to applicable local ordinances and state laws and rules.

(e) Utility lines to service private single-family dwellings.

(f) Surface gas and utility lines on lands or interests in real property continuously owned by a utility from and after January 1, 1971, subject to review and approval by the commission.

(g) Disposal fields and septic tanks if located not less than 150 feet from the river's edge and if in conformance with local county health codes and these rules. In addition, a septic tank or absorption field shall not be closer than 50 feet to any subsurface drainage system emptying into the Pere Marquette river or designated tributaries.

(h) Land alteration, such as grading, dredging, or filling, of the land surface, unless the high-ground water table is within 6 feet of the land surface, if the activities meet all of the provisions of Act No. 347 of the Public Acts of 1972, as amended, and Act No. 346 of the Public Acts of 1972, and if approval is granted by the local soil erosion and sedimentation control enforcement agency and the department of natural resources.

(i) Signs and outdoor advertising devices shall meet the following requirements:

(i) They shall be related to permitted uses.

(ii) They shall not be more than 1 square foot in area for residential uses and not more than 4 square feet in area for any other uses.

(iii) They shall not be illuminated by any neon light or flashing device.

(iv) They shall not be attached to any tree or shrub.

(j) Other uses for which an applicant is granted a permit by the zoning administrator pursuant to R 281.108, R 281.109, and R 281.111.

R 281.107 Natural vegetation strip.

Rule 7. A 75 foot minimum restrictive cutting belt shall be maintained on each side of the Pere Marquette mainstream, the big south branch, little south branch, middle branch, and the Baldwin river. Along all other streams in the natural river district, a 50 foot minimum restricted cutting belt shall be maintained. Trees and shrubs may be pruned for a filtered view of the river upon approval by the zoning administrator, but clear cutting in the natural vegetation strip is

prohibited. The natural vegetation strip is also subject to both of the following provisions:

- (a) Dead, diseased, unsafe, or fallen trees and noxious plants and shrubs, including poison ivy, poison sumac, and poison oak, may be removed.
- (b) Selective removal or trimming of trees for timber harvest, landscaping, or public utility facilities is permitted upon approval by the area forester or zoning administrator.

R 281.108 Special exception permits.

Rule 8. (1) Special exception permits may be granted to allow a use in the natural river district which is not specifically permitted by R 281.106 if implementation of that use does not contravene the purposes of these rules as specified in R 281.102.

(2) Application for a special exception permit shall be made on a form provided by the zoning administrator.

(3) Upon reviewing an application for a special exception permit, the zoning review board, at any time before rendering a decision thereon, shall require the applicant to furnish any of the following information, as deemed necessary by the zoning review board, for determining the suitability of the particular site for the proposed use:

- (a) A detailed description of the proposed activity or use.
- (b) A surface view plan giving accurate dimensions on either a scale drawing or a rough sketch that shows all of the following:
 - (i) Elevations or contours of the ground, including existing earth fills.
 - (ii) Generalized vegetative cover.
 - (iii) Size, location, and spatial arrangement of all proposed and existing structures on the site.
 - (iv) The location and elevations of streets, access roads, and water supply and sanitary facilities.
- (c) Photographs showing existing land uses and vegetation upstream and downstream from the proposed use.
- (d) Valley cross sections showing the natural stream channel, stream-banks, high-water marks, flood marks, if known, and locations of proposed developments.
- (e) Any other information which is deemed relevant by the zoning administrator and which is necessary to carry out the intent and provisions of these rules.

(4) Before considering applications, the zoning review board shall give notice, by certified mail, to all of the following:

- (a) Property owners within 500 feet of the proposed use as shown on the current tax assessment rolls.
- (b) Local officials and department of natural resources personnel, including all of the following:
 - (i) Township supervisor.
 - (ii) Township building inspector.
 - (iii) County health officer.
 - (iv) Local soil erosion and sedimentation control enforcement agency.
 - (v) County and township planning and zoning officials.
 - (vi) Soil conservation service.
 - (vii) Regional office and natural rivers section of the department of natural resources.
 - (viii) soil conservation district.

(c) Any other interested parties who request that they be notified of such requests in the natural river district.

(5) In reviewing an application, the zoning review board shall consider all of the following:

(a) All relevant factors specified in these rules in light of the spirit and intent of the purposes specified in R 281.102.

(b) The economic effect of the subject property weighed in light of the applicant's entire contiguous holdings and not merely the portion within the natural river district. If the subject portion is the remainder of a larger holding, this fact, together with a description of the title history, shall be included in the hearing evidence.

(c) Increases in flood levels and flood damages that may be occasioned by the proposed use at the site and upstream and downstream from the site, water quality consequences, and other relevant factors within the terms of these rules.

(d) The cumulative effect upon the natural river district from the potential development of holdings in a legal position similar to the applicant's, if the applicant's request is approved by the zoning review board.

(e) Reasonable alternatives available to the applicant.

(6) In weighing the applicant's request, consideration of public health, safety, and welfare shall prevail, unless private injury is proved by a preponderance of the evidence to be so great as to override the public interest.

(7) A requested use shall not be granted if the zoning review board determines that the requested use poses a substantial hazard to life or to public or private property rights.

(8) The zoning review board may require public hearings to be held regarding the application. The zoning review board shall decide on an application within 30 days after receiving the application, except that if public hearings are held or if additional information is required pursuant to sub-rule (3) of this rule, the zoning review board shall render a decision within 30 days following the hearings or shall render a decision upon receipt of the last requested information or within 30 days after receiving the last requested information.

(9) The zoning review board shall attach such conditions to the granting of a special exception permit as are necessary to further the purposes of these rules.

(10) A special exception use shall adhere strictly to the terms of the special exception permit. A special exception permit that does not adhere strictly to the terms of the permit may be revoked by the zoning administrator.

R 281.109 Substandard lots of record.

Rule 9. (1) The zoning administrator, in compliance with the terms of this subrule, shall grant a permit if, because of either of the following circumstances, a proposed structure cannot be erected on a lot of record or a lot described in a deed or land contract executed and delivered before the effective date of this rule: July 15, 1981

(a) The lot is of insufficient width, depth, or area.

(b) Physical limitations exist on an existing lot or parcel.

(2) The zoning administrator shall ensure that all structures are located to best meet the objectives and purposes of these rules, the adopted Pere Marquette river natural river plan, and Act No. 231 of the Public Acts of 1970.

(3) The zoning administrator shall determine if a proposed structure on a lot of record or on a lot described in a deed or land contract executed and delivered before the effective date of these rules cannot

conform to the standards listed in R 281.106(2)(a) and is, therefore, ineligible for consideration for use under R 281.106.

(4) A written application for a zoning permit on a lot of record shall be filed with the zoning administrator. The same information required in R 281.104(2) shall be submitted with an application.

(5) The zoning administrator shall grant a zoning permit for the use of a substandard lot of record only upon a showing of all of the following:

(a) Granting the permit is not contrary to the public interest.

(b) The permit does not allow the establishment of a use not otherwise permitted by these rules.

(c) The permit applies only to the property under the control of the applicant.

(d) The practical difficulties claimed by the applicant are not the result of actions taken by the applicant.

(e) Granting the permit poses no substantial hazard to life or to public or private property rights, secures public safety, and does substantial justice.

(f) Granting the permit will not result in an increase of flood levels or risk of flood damage to other lands.

(g) The lot shall be developed pursuant to department of natural resources requirements under Act No. 245 of the Public Acts of 1929, as amended, being §323.1 et seq. of the Michigan Compiled Laws.

(h) Use of the lot will not significantly impair existing water quality, vegetative cover, fisheries, or wildlife habitat or increase the risk of erosion.

(i) The substandard lot size shall be the minimum dimensional reduction necessary to achieve a reasonable use of the land, after evaluation of alternative dimensional arrangements and permitted land uses available to the applicant, given the peculiar characteristics of the lot and circumstances surrounding the request. Alternatives shall be examined in light of the applicant's entire contiguous holdings and not merely a single lot or the portion within the natural river area. If dimensional requirements may be more nearly met through lot combination of contiguous holdings, the zoning administrator may so require.

(j) The permit provides that no fill shall be placed within the natural vegetation strip and that the approval of both the appropriate county or district health department and the soil erosion and sedimentation control enforcement agency shall be secured.

(k) The permit provides conditions necessary to insure proper development of the substandard lot pursuant to these rules.

(6) A special exception permit is required if a dimensional reduction of more than 50% of any of the standards listed in R 281.106(2)(a) is necessary to achieve reasonable use of the land. The zoning review board shall base its decision upon the standards set forth in R 281.108(5).

(7) The zoning administrator may confer with, and seek the advice of, the zoning review board, personnel of the Michigan department of natural resources, and other federal, state, and local officials to determine the possible effects of, and a suitable location for, a proposed structure.

(8) One copy of the plans, specifications, and the zoning permit, with conditions attached, shall be filed and retained by the zoning administrator,

and another copy of each shall be delivered to the applicant when the zoning administrator has approved the application, completed the site inspection, and issued a zoning permit.

(9) The applicant may appeal any decision of the zoning administrator or any conditions attached to a zoning permit to the zoning review board.

R 281.110 Nonconforming uses.

Rule 10. (1) The lawful use of any land or structure existing on the effective date of these rules may be continued although the use does not conform to these rules.

(2) Routine or normal repairs and maintenance work required to keep a nonconforming structure or other use, such as a roadway, in sound condition are permitted. Remodeling of nonconforming structures within the confines of the existing foundation and elevations is permitted, if the structure is neither enlarged nor extended, and if the structure complies with the requirements of R 281.108(3).

(3) The granting of a special exception permit is required for the restoration of a nonconforming building or structure damaged or destroyed by more than 50% of its value due to flood, fire, or other means. In determining whether 50% of the value has been destroyed, the zoning review board shall use appraised replacement costs, as determined by a qualified individual appointed by the zoning review board, and shall compare the value of the part destroyed to the value of the total operating unit where there are several buildings or structures which are used together by the landowner as a single operating unit. A request for restoration of a nonconforming building or structure damaged or destroyed by more than 50% of its value shall be approved if all of the following conditions exist:

(a) The land on which the building or structure is situated is not subject to flooding.

(b) The continued use of a nonconforming building or structure will not lead to accelerated bank erosion or other material degradation of the river resource, and the use of the building or structure is approved by the local soil erosion and sedimentation control enforcement agency.

(c) The continued use conforms with local county health codes and is approved by the local county health department.

(d) The continued use conforms with local building codes and is approved by the local building inspector.

(e) Restoration of a damaged building or structure approved by the zoning review board shall be started within 1 year from the time of damage.

(4) A nonconforming use may be changed to a use of a like or similar character if the use more closely conforms to the rules of the natural river district.

(5) A nonconforming use of any land or structure may not hereinafter be enlarged or extended without the granting of a special exception permit upon consideration of the factors outlined in subrule (3) of this rule. An enlargement or extension of a nonconforming use of up to 50% of the land area or the floor area of a residential structure or public accommodation which provides overnight facilities and which does not exceed 12 units may be approved by the zoning review board if the owner submits to the zoning review board a detailed description of the proposed enlargement or extension, together with a site plan showing the location of all new

structures or uses, and if the zoning review board determines that all of the following conditions exist:

(a) The land on which the structure or accommodation is situated is not subject to flooding.

(b) The enlargement or extension of the nonconforming use does not lead to accelerated bank erosion or other material degradation of the river resource, and the enlargement or extension is approved by the local soil erosion and sedimentation control enforcement agency.

(c) The enlargement or extended use conforms with local county health codes and is approved by the local county health department.

(d) The enlarged or extended use conforms with local building codes and is approved by the local building inspector.

(e) The enlarged or extended use does not contravene the purposes of these rules as specified in R 281.102.

(6) The substitution of a nonconforming use with another nonconforming use may be made, but the granting of a special exception permit upon consideration of the factors outlined in subrule (5) of this rule is required to ensure that the changed use conforms as closely as possible to the purposes of these rules as specified in R 281.102.

(7) If a nonconforming use is discontinued for 12 consecutive months, any future use at that site shall conform to these rules.

(8) A property owner may request the zoning review board to certify the existence of a prior nonconforming use on the owner's property. Certification of a prior nonconforming use shall be granted if the use meets the criteria of this rule and the common law criteria of nonconforming uses of this state.

R 281.111 Appeals; contested cases.

Rule 11. An aggrieved party who contests a decision of the zoning administrator or zoning review board shall be granted a hearing if a petition is filed with the director within 60 days after notice of disapproval is received. The hearing shall be conducted pursuant to the provisions for contested cases in Act No. 306 of the Public Acts of 1969, as amended, being §24.201 et seq. of the Michigan Compiled Laws, and in R 299.3071 to R 299.3081.

R 281.112 Zoning administrator and zoning review board; appointment; duties.

Rule 12. The commission shall appoint a zoning administrator and a zoning review board to act as its agents to enforce these rules. The duties of the zoning review board and zoning administrator include, but are not limited to, all of the following:

(a) Receiving and processing applications for zoning permits, special exception permits, petitions for appeals, requests for changes, amendments, and supplements.

(b) Inspecting sites.

(c) Issuing or denying zoning permits as outlined in these rules.

(d) Assisting with other matters requiring a decision by the commission.

R 281.113 Violations.

Rule 13. (1) An alleged violation shall be inspected by the staff of the Department and, if it is found that a violation exists, the department shall order the applicant, in writing, to correct conditions found to be in violation of these rules.

(2) Any construction or a use of land or premises that violates these rules subjects the applicant or property owner to the provisions of section 13 of Act No. 231 of the Public Acts of 1970, being §281.773 of the Michigan Compiled Laws.

R 281.114 Boundaries and permitted uses; changes, amendments, and supplements.

Rule 14. (1) The commission may make changes, amendments, and supplements to boundaries and permitted uses requested by a local unit of government or by a landowner, if implementation of the change, amendment, or supplement does not contravene the purposes of these rules as specified in R 281.102.

(2) A local unit of government or a landowner who requests a change, amendment, or supplement to the boundaries or to permitted uses shall have a hearing held pursuant to sections 71 to 87 of Act No. 306 of the Public Acts of 1969, as amended, being §§24.271 to 24.287 of the Michigan Compiled Laws.

(3) Copies of any changes, supplements to boundaries, or adopted amendments shall be sent to all of the following:

- (a) The county register of deeds.
- (b) The zoning administrator of these rules.
- (c) Local planning, zoning, and health officials.
- (d) Township and county clerks.
- (e) The local building inspector.
- (f) Local soil erosion and sedimentation control enforcement agencies.
- (g) The soil conservation service.
- (h) Soil conservation district.
- (i) Public utility companies which provide service to riverfront property owners affected by these rules.

(4) Upon approval by the director of a local zoning ordinance that meets all of the requirements of Act No. 231 of the Public Acts of 1970, and of either Act No. 184 of the Public Acts of 1943, as amended, being §125.271 et seq. of the Michigan Compiled Laws, or Act No. 183 of the Public Acts of 1943, as amended, being §125.201 et seq. of the Michigan Compiled Laws, whichever is applicable, the adopted local ordinance shall take precedence over these rules. If the director withdraws his or her approval of a local zoning ordinance, or if the local ordinance becomes inapplicable to the land area encompassed by the Pere Marquette river natural river district through court action or for any other reason, these rules shall apply.

These rules became effective on
July 15, 1981

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF LAND RESOURCE PROGRAMS
PERE MARQUETTE RIVER NATURAL RIVER ZONING

Filed with the Secretary of State on
These rules take effect 15 days after filing with the Secretary of State

(By authority conferred on the commission of natural resources by
section 13 of Act No. 231 of the Public Acts of 1970, being §281.773
of the Michigan Compiled Laws)

R 281.101 Definitions.

Rule 1. As used in these rules:

(a) "Applicant" means a person who requests, on proper forms and pursuant to proper procedures, a zoning permit, special exception permit, or variance.

✓ (b) "Appurtenance" means a structure incidental to a dwelling, including, but not limited to, garages, private access roads, pump houses, wells, sanitary facilities, and electrical service lines.

✕ (c) "Bluff" means the top of a steep bank rising sharply from the river's edge.

(d) "Building inspector" means the agency or individual appointed by the appropriate governmental subdivision to administer the provisions of Act No. 230 of the Public Acts of 1972, as amended, being §125.1501 et seq. of the Michigan Compiled Laws, and known as the state construction code act of 1972, including the issuance of building permits.

✕ (e) "Building permit" means a permit issued by the appropriate governmental subdivision as presently required under provisions of Act No. 230 of the Public Acts of 1972, as amended.

(f) "Commission" means the natural resources commission.

(g) "Cutting edge of the river" means the edge of a river or stream where the water velocity is such that it may cause soil or streambank erosion.

(h) "Director" means the director of the department of natural resources.

(i) "Family" means either of the following:

(i) One or more persons who are related by blood, legal adoption, or marriage and who occupy a single dwelling unit with not more than 3 other persons.

(ii) Not more than 5 unrelated persons who occupy a single dwelling unit.

✓ (j) "Filtered view of the river" means the maintenance or establishment of woody vegetation of sufficient density to screen developments from the river, to provide for streambank stabilization and erosion control, to serve as an aid to infiltration of surface runoff, and to provide cover to shade the water. The vegetation need not be so dense as to completely block the river view. Filtered view of the river means no clear cutting.

(k) "Front" means that side of a lot abutting the river's edge of the mainstream or tributary.

Feb. 9, 1981

- × (l) "Lot" means a continuous area or acreage of land which can be described for purposes of transfer, sale, lease, or other conveyance.
- (m) "Lot of record" means a lot that actually exists in a subdivision plat as shown on the records of the county register of deeds before the effective date of these rules, or a lot or parcel described by metes and bounds, the description of which has been recorded as required by law.
- × (n) "Natural river district" means the Pere Marquette river natural river district as described in R 281.103(1).
- × (o) "Ordinary high-water mark" means the line between upland and bottom-land which persists through successive changes in water level and below which the presence and action of the water is so common or recurrent that the character of the land is marked distinctly from the upland and is apparent in the soil itself, the configuration of the surface of the soil, and the vegetation.
- × (p) "Reforestation" means the renewal of vegetative cover by seeding, planting, or transplanting.
- × (q) "River's edge" means the ordinary high-water mark as used in Act No. 346 of the Public Acts of 1972, being §281.951 et seq. of the Michigan Compiled Laws, and as defined in R 281.101(o).
- × (r) "Setback" means the horizontal distance between any portion of a structure and the river's edge, measured at the structure's closest point to the river's edge.
- × (s) "Single-family dwelling" means a detached building, or portion thereof, which is used exclusively for residential purposes, which is designed for, or occupied exclusively by, 1 family, and which contains housekeeping facilities.
- (t) "Soil erosion and sedimentation control enforcement agency" means the local agency appointed by the appropriate governmental subdivision to enforce the provisions of Act No. 347 of the Public Acts of 1972, as amended, being §282.101 et seq. of the Michigan Compiled Laws.
- × (u) "Structure" means anything that is constructed, erected, or moved to or from any premise which is located above, on, or below the ground, including, but not limited to, roads, signs, billboards, and mobile homes. Temporary recreational facilities, including, but not limited to, tents, camper trailers and recreation vehicles are not considered structures when used less than thirty (30) days per year and located landward of the natural vegetation strip.
- × (v) "Zoning administrator" means the administrator of these rules who is appointed by the natural resources commission.
- × (w) "Zoning permit" means a standard form issued by the zoning administrator upon a determination that the proposed construction and use of land and buildings and structures thereon is in compliance with all provisions of these rules.
- × (x) "Zoning review board" means a group of not less than 5 nor more than 9 people which includes not less than 3 local representatives and 1 department of natural resources representative and which is appointed by the commission to act upon requests for special exceptions.

R 281.102 Purpose.

Rule 2. The commission, on its own motion, in order to implement the intent of Act No. 231 of the Public Acts of 1970, being §281.761 et seq. of the Michigan Compiled Laws, and in the absence of local zoning to protect the Pere Marquette river, a designated natural river, promulgates these zoning rules whose purposes are as follows:

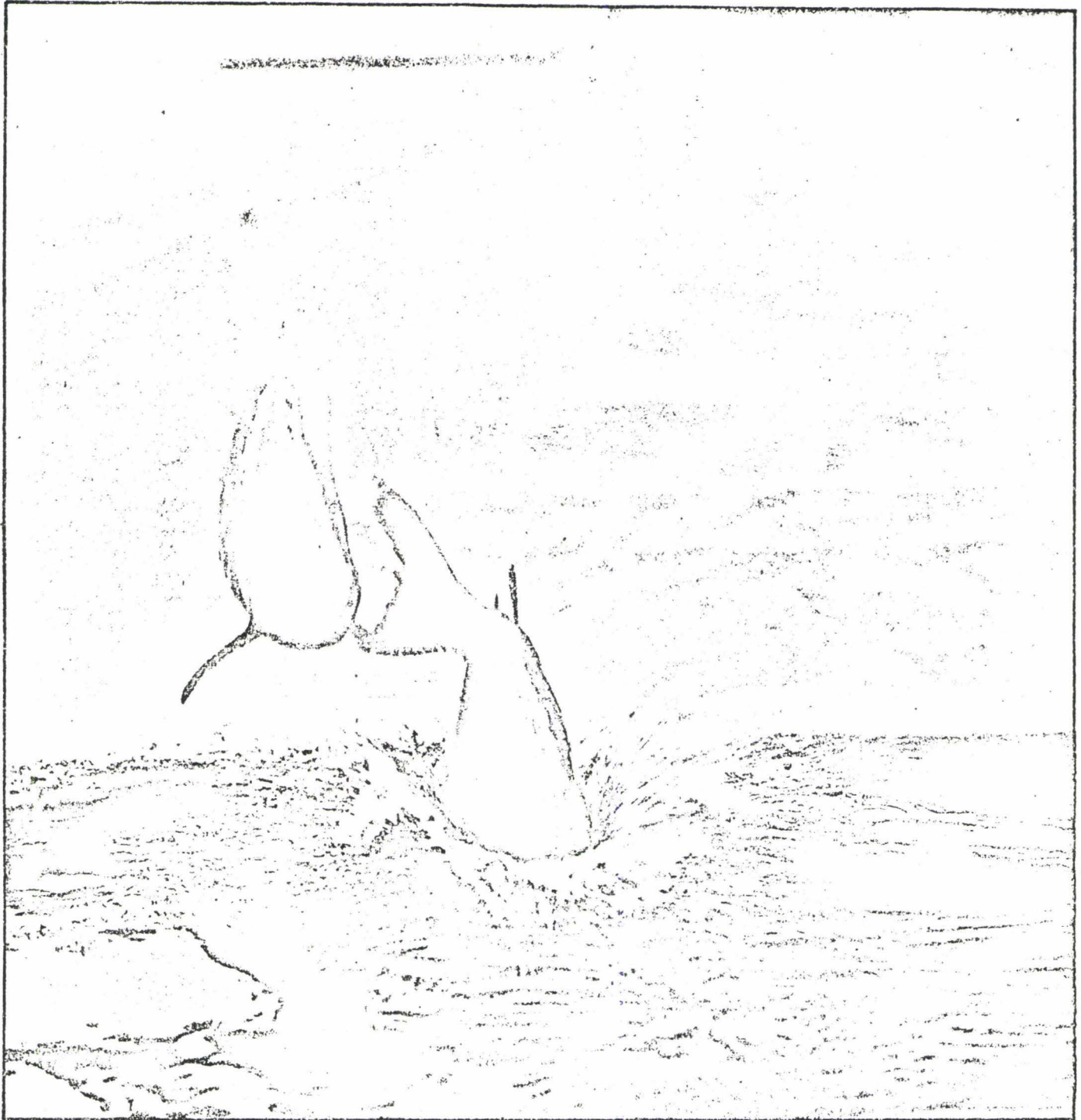
- (a) To promote the public health, safety, and general welfare, to prevent economic and ecological damages due to unwise development patterns within the natural river district, and to preserve the values of the natural river district for the benefit of present and future generations.

REGISTER

MICHIGAN DEPARTMENT OF NATURAL RESOURCES

November, 1981

Volume 1, No. 3



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Other Highlights This Issue: Land Resource Programs Division Profiled, P.4;
Readers Respond to Natural Resources Register, P.6; DNR Budget Cut Explained, P.8;
Conservation Officer Graduates from FBI Academy, P.10; Acid Rain, A Big Problem, P.26.



interpretation units, and large reduction in the Resource Inventory program. Related permit processes will be slowed down due to staff reductions.

11. Geological Survey Division, \$114,700. Sand dune protection program reduced.

12. Water Management Division, \$40,000. Reduces flood hazard staff.

13. Resource Recovery Division, \$141,300. Staff reductions in source reduction and recycling programs. Reductions will also cause additional delays in processing of solid waste plans submitted by counties. Additionally, of concern to local units of government, this cutback did not include any of the solid waste management grants, both personnel and planning grants authorized by Act 641.

Quality Division, \$87,000. Reduction in equipment and in permit staff.

15. Water Quality Division, \$330,000. Large staff reductions which will increase time lag in review and issuance of water discharge permits; will reduce the Pollution Emergency Alert System response capability to major spills only; reduce ability to investigate existing groundwater contamination problems; and hamper effectiveness of the issuance of groundwater discharge permits to prevent groundwater problems. Also, the wastewater treatment plant operator training program is eliminated.

16. Environmental Services Division, \$622,600. Large staff reductions which will significantly reduce ability to monitor surface water pollution problems and decrease ability by one-third to investigate industrial discharges. Also, major reduction in equipment purchases, eliminating plans to modernize the environmental laboratory.

17. Law Enforcement Division, \$

Forest Fire Protection, \$330,000. This reduces by two-thirds the Department's fire protection program to assist local fire departments in the state's 35 southern-most counties.

19. Environmental Enforcement Division, \$30,900. Reduction in environmental review function.

In total, the \$5.5 million General Fund reduction will likely cause the elimination of nearly 150 fulltime positions, and the

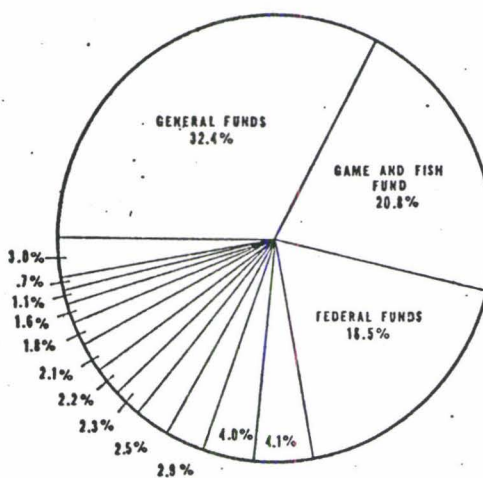
layoff of between 75 and 90 employees. The reductions will likely be implemented in December.

Figures 1, 2 and 3 are provided to more specifically explain the Department's budget picture. Figure 1 shows the original 1981-82 appropriations for operating programs; Figure 2 shows the breakdown of the three major sources of revenue and the many assorted "restricted" funds; and Figure 3 (on page 37) shows the percentage of original General fund appropriation (\$51.3 million) by unit for Fiscal Year 1981-82. In both Figures 1 and 3, "taxes" is the amount of money paid by the state to

local units of government for payments in lieu of taxes on state-owned lands and also Commercial Forest Act payments. Also, the "Administration (Department-wide)" portion noted in Figure 3 includes funds for Administrative Services and Personnel divisions, the Office of Budget and Federal Aid, support staff at all Regional and District offices, and many Field Offices, plus payments for rent, worker's compensation, terminal sick leave, et cetera.

CHART B-2
OBFA

DEPARTMENT OF NATURAL RESOURCES
FINANCING SOURCES FOR OPERATING PROGRAMS
1981-82



General	\$51,265,400	32.4%	(Forest Camping Fees	550,600)
Game and Fish	32,945,700	20.8	(Snowmobile Trail Imp. Fund	516,900)
Federal	29,320,700	18.5	(MacMullen Conf. Center	400,000)
Waterways	6,537,000	4.1	(Land Acq. Serv. to W.O.	346,900)
Park Fee & Concession	6,336,000	4.0	(Civil Service Funds	291,200)
Water Surveill. Fees	4,575,900	2.9	(Off Road Vehicle Reg.	236,200)
Oil & Gas Privilege Fees	3,925,400	2.5	(Mich. Land Trust Fund	140,000)
Forest Management Fund	3,633,900	2.3	(Mich. Trans. Fund	119,500)
Air Surveill. Fees	3,459,500	2.2	(Tax Reverted Prop. Rev.	100,000)
State Fair	3,235,700	2.1	(Lands & Lease Sales Serv. Chg.	55,000)
Marine Safety Fund	2,846,800	1.8	(Pilot Charges	51,000)
Park Improvement Fund	2,447,000	1.6	(Gifts, Requests & Donations	45,000)
DNR Magazine	1,763,600	1.1	(Living Resources	35,500)
Engr. Services to W.O.	1,173,100	.7	(Sand Extraction Fees	32,000)
Other	4,658,400	3.0	(Airport Fees	31,000)
(Mack. Is. Imp. Fund	310,600)		(Film Rental	16,500)
(Snowmobile Reg. Fees	775,500)		(State Trunkline Fund	5,000)
			(Photo Service	

\$150,104,300 100.0%

Figure 2



October DNR Budget Cuts Explained

By DENNIS ADAMS
Office of Budget
and Federal Aid

The Department of Natural Resources' 1981-82 budget appropriation exceeds \$158 million, of which about 32 percent of the revenues come from the state's General Fund, about 21 percent from Game and Fish Protection Fund, and over 18 percent from federal funds. Several other special use funds comprise the remainder of the total.

All of the funds, except the General Fund, are called "restricted" funds, and by law they can only be used for specific purposes. Thus, only General Fund monies—and programs—have been affected by any of the several budget cuts experienced by state government during the last two fiscal years (which begin October 1 and end September 30).

General Fund cutbacks in the Department before this fiscal year have exceeded \$1 million, and have resulted in significant reductions in numerous programs. The reductions have also resulted in the loss of several hundred fulltime positions in the Department and the layoff of about 140 employees.

However, programs financed by the Game and Fish Protection Fund (revenues derived primarily through sales of hunting and fishing licenses) by federal funds (generally categorical grants that support a variety of programs spanning several organizational units), and other state restricted sources have been relatively unaffected by the cuts.

This was also the case in the most recent cutbacks, the \$270 million reduction recommended for all of state government by Governor Milliken, and approved by the Legislature, at the end of October. The Department's cuts made up nearly \$5.5 million of the total, and only General Fund programs, again, were affected.

At the time this article went to press, tentative major components of the \$5.5 million reduction necessitated by the Governor's Executive Order last month were identified as follows:

1. Executive Office, \$111,400. This includes a reduction in the internal audit

staff and in travel and equipment.

2. General administration, \$173,400. This includes two of the three remaining Department transportation aircrafts and pilots.

3. Information and Education, \$30,800. The environmental education program is eliminated.

4. Engineering Division, \$53,000. Two design positions are eliminated.

5. Recreation Services Division, \$147,700. Reduction in technical services staff which provides assistance to local units of government.

6. Parks Division, \$603,000. Closure of all outdoor centers and most nature centers, large reductions in park staff positions and equipment.

7. Mackinac Island State Park Division, \$510,300.

8. Forest Management Division, \$975,400. Closure of large number of state forest campgrounds, near elimination of cooperative forestry program (which provides assistance to private timber growers).

9. Lands Division, \$91,200. Staff reduction which will lessen ability to evaluate tax-reverted lands for possible public uses and/or possible return to local property tax rolls; and in review of land exchanges as requested by the public.

10. Land Resource Programs Division, \$382,000. Eliminates Natural Rivers program, reduces inland lakes management, submerged lands, wetlands and air photo

CHART B-1
OBFA

DEPARTMENT OF NATURAL RESOURCES
APPROPRIATIONS FOR OPERATING PROGRAMS
1981-82

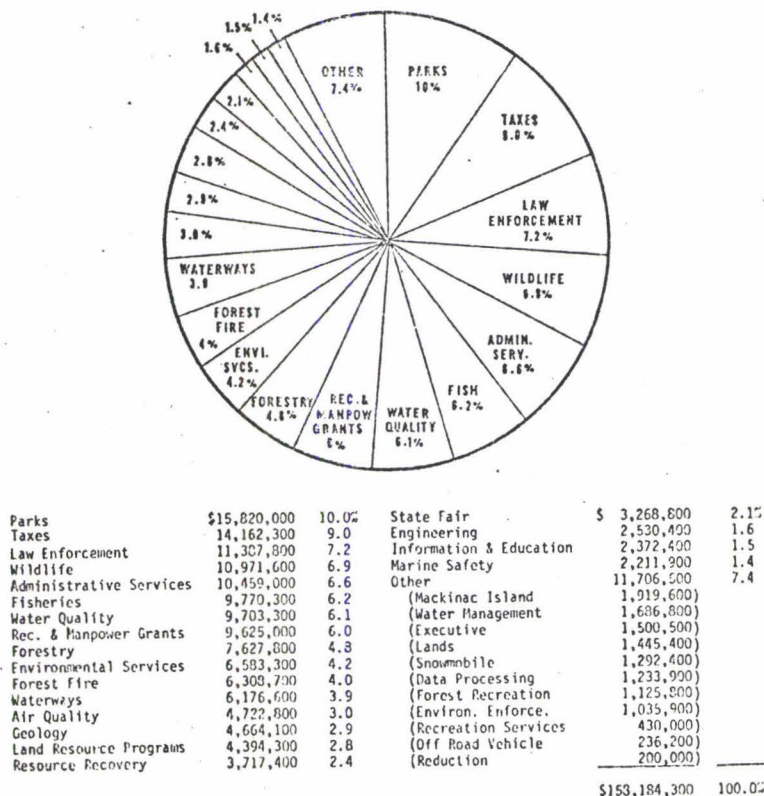


Figure 1